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STANFORD UNIVERSITY and MAIA YOUNG

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SOREN ANDERSEN,

Plaintiff,

vs.

MAIA YOUNG, an individual; STANFORD
UNIVERSITY, a business entity unknown;
and DOES 1-100, inclusive,

Defendants.

No. C-07-03766 (JW)

[PROPOSED] ORDER GRANTING
STANFORD UNIVERSITY'S AND
MAIA YOUNG'S MOTION TO
DISMISS FIRST AMENDED
COMPLAINT PURSUANT TO FRCP
12(b)(1) AND (6)

Date: November 19, 2007
Time: 9:00 a.m.
Dept.: Courtroom 8
Judge: Hon. James Ware

Defendants STANFORD UNIVERSITY and MAIA YOUNG submit the attached
proposed order.

Dated: August 31, 2007.

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By /s/ Jason A. Catz
Attorneys for Defendants STANFORD
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The Court has considered the papers submitted in support of and in opposition to, and has heard oral argument in connection with, Defendants STANFORD UNIVERSITY's and MAIA YOUNG's Motion to Dismiss First Amended Complaint Pursuant to F.R.C.P. 12(b)(1) and (6), filed August 31, 2007 and the Request for Judicial Notice filed in connection with that motion.

All four of Plaintiff's causes of action are barred by the *Rooker-Feldman* doctrine. This Court does not have jurisdiction over the claims in this case because Plaintiff lost on his defamation claims in state court, complains of injuries caused by the state court judgment, and asks this Court to review and reject the state court judgment, which became final for *Rooker-Feldman* purposes on January 17, 2007. *See Henrichs v. Valley View Dev.*, 474 F. 3d 609, 612-13 (9th Cir. 2006); *Mothershed v. Justices of Supreme Court*, 410 F. 3d 602, 604 fn. 1 (9th Cir. 2005).

Independent of this ground for dismissal, there are alternative grounds for dismissal of each cause of action. Plaintiff does not and cannot allege the requisite state action to pursue the third and fourth causes of action against Stanford and Young. Defendants'

1 actions in filing the Anti-SLAPP motion do not constitute the kind of joint activity with the
 2 state necessary to satisfy the state action requirement. *Lugar v. Edmonson Oil Co.*, 457
 3 U.S. 922, 941 (1982); *Wilson v. Hilton*, 2000 U.S. Dist. LEXIS 22685 at *8 (N.D. Cal.
 4 2000). Plaintiff concedes in his complaint that Stanford is a private university, and private
 5 universities are not considered state actors in the absence of control of the private
 6 university's action by the state (*See Greenya v. George Washington University*, 512 F. 2d
 7 556, 561 (D.C. App. 1975)), which was not alleged here.

8 Plaintiff's third and fourth causes of action also fail because California Code of
 9 Civil Procedure § 425.16 does not unduly burden Plaintiff's right to petition for redress of
 10 grievances. *Equilon Enterprises, LLC v. Consumer Cause, Inc.*, 29 Cal. 4th 53, 63-64
 11 (2002).

12 Plaintiff's third cause of action does not and cannot allege a constitutionally
 13 protected association as the basis for the claimed violation of his right to freedom of
 14 association. *IDK v. County of Clark*, 836 F. 2d 1185, 1191-92 (9th Cir. 1988) (citing
 15 *Roberts v. United States Jaycees*, 468 U.S. 609 (1984)). Plaintiff's allegation that he was
 16 denied the opportunity to participate in a yoga class allegedly open to the public does not
 17 involve constitutionally protected association.

18 Plaintiff's third cause of action was filed more than one year after he was banned
 19 from the yoga classes. His third cause of action, insofar as it alleges the violation of a
 20 constitutionally protected association, is therefore time-barred. *Western Center for*
 21 *Journalism v. Cederquist*, 235 F. 3d 1153, 1156 (9th Cir. 2000).

22 Because the third and fourth causes of action are dismissed, this Court does not have
 23 pendent jurisdiction over the state law defamation claims in Plaintiff's first and second
 24 causes of action. *Scott v. Pasadena Unified School Dist.*, 306 F. 3d 646, 664 (9th Cir.
 25 2002).

26 The first and second causes of action also fail because they are barred by collateral
 27 estoppel. The Anti-SLAPP statute applies to state law claims in federal court. *Vess v. Ciba-*
 28 *Geigy Corp.*, 317 F. 3d. 1097, 1109 (9th Cir. 2003). The California courts have already

1 ruled that Plaintiff's state law defamation claims constitute a SLAPP suit against the
2 Defendants and that Plaintiff's evidence did not show that he could prevail on his claims.
3 Plaintiff is not entitled to relitigate these issues again in this Court. *Lucido v. Superior*
4 *Court*, 51 Cal. 3d 335, 341 (1990).

5 IT IS THEREFORE ORDERED AS FOLLOWS:

- 6 1. Defendants' request for judicial notice is GRANTED.
- 7 2. Defendants' motion to dismiss the First Amended Complaint for Defamation
8 and First Amendment Violations is GRANTED without leave to amend.

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10 Dated: _____, 2007.

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12 _____
13 Hon. James Ware
14 United States District Judge
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